

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

First named inventor: Mikhail LevitinApplication No.: 09/808,962Art Unit: 3748Filed: 3/16/2001Examiner: Hoang M. NguyenTitle: Method of Running a Condenser
for Liquidation of Steam or VaporAttention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (703) 872-9306**RECEIVED**

MAR 24 2006

OFFICE OF PETITIONS

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee☒ Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

- ☐ has been filed previously on _____
- ☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____

- ☐ has been paid previously on _____
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-2468.

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P.O. Box 1450
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22313-1450

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4. Restricted Delivery? (Extra Fee)

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 17

MIKHAIL LEVITIN
P.O. Box 102
REEDERS PA 18352-0102

COPY MAILED

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MAR 24 2006

OFFICE OF PETITIONS

In re Application of
MIKHAIL LEVITIN And Boris Khaytin
Application No. 09/808,962
Filed: March 16, 2001
Title: METHOD OF RUNNING A
CONDENSER FOR LIQUIDATION OF
STEAM OR VAPOR

DECISION ON RENEWED
PETITION

This is a decision on the renewed petition filed January 4, 2006, under 37 C.F.R. §1.137(a)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 23, 2002, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 24, 2002. A Notice of Abandonment was mailed on February 7, 2003.

A response to the non-final Office action was submitted on February 12, 2003. On February 24, 2003, a petition was filed to have the holding of abandonment withdrawn. This petition was dismissed via the mailing of a decision on May 19, 2004. With the original petition under 37 C.F.R. §1.137(a), Petitioner submitted a statement of facts, the petition fee, and a copy of a phone bill.

¹ A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(l);
- (3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

Application No. 09/808,962
Decision on Petition

Page 2 of 7

The original petition was submitted on July 18, 2004, and was dismissed via the mailing of a decision on July 13, 2005 for failure to establish Petitioner's assertion that a response to the non-final Office Action was submitted to the Office on June 17, 2002 and again on June 25, 2002.

The decision on the original petition was mailed on July 13, 2005, and this decision set a two-month period for response. As such, the reply was due no later than September 13, 2005. Since this petition was received on January 4, 2006, consideration by this Office requires a petition for an extension of time, in order to make timely a response which has been submitted subsequent to the expiration of the period for reply.

It is noted in passing that Petitioner has not submitted a response to the petition, but has merely submitted another amendment. Petitioner will need to submit a response to the petition.

Furthermore, Petitioner may wish to review 37 C.F.R. §1.8 and MPEP §512. Both of which may be viewed online from this webpage: <http://www.uspto.gov/web/offices/pac/mpep/index.htm>.

It follows that the renewed petition must be **DISMISSED**.

The period for response continues to run from the mail date of the decision on the original petition.

Petitioner's only relief is a petition under 37 C.F.R. §1.137(b), and - having been made aware of this reality - Petitioner's delay in promptly seeking relief under 37 C.F.R. §1.137(b) may be considered evidence of intentional delay and an absolute bar to revival.

Petitioner has submitted a change of correspondence address, but the request has only been executed by one of the two joint inventors. As such, the request cannot be granted, and the change of correspondence address cannot be effectuated, pursuant to 37 C.F.R. §§1.33(a) and (b).

NOTICE:

Any request for reconsideration of this decision under 37 C.F.R. §1.137(a) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. Failure to respond will result in abandonment of the application. The request for reconsideration should include a cover letter entitled "Second Renewed Petition under 37 C.F.R. §1.137(a)," and should only address the deficiencies noted in this decision.

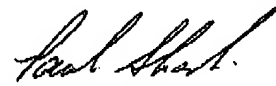
Thereafter, there will be no further reconsideration of this matter^{2,3}.

² For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: *Porter v. Loudon*, 7 App.D.C. 64 (C.A.D.C. 1895), citing *Wollensak v. Sargent*, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public: *Automatic Electric Co. v. Dyson*, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R. §§1.181, 182, 183.

The second renewed petition should display "Please deliver to Paul Shanowski, c/o Office of Petitions" in a prominent manner. Any renewed petition may be submitted by mail⁴, hand-delivery⁵, or facsimile⁶.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

The application file will be retained in the Office of Petitions for a period of TWO MONTHS.



Paul Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Boris Khaytin
PO Box 102
Reeders, PA 18352

3 If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will not apply to that decision.

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

5 Customer Window, Randolph Building, 401 Dulancy Street, Alexandria, VA, 22314.

6 (571) 273-8300 – please note this is a central facsimile number.

UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: Hoang M. Nguyen

Art Unit: 3748

In re:

Applicant(s): Levitin, et al.

Serial No.: 09/808,962

VERIFICATIONHonorable Commissioner
Of Patents and Trademarks
Alexandria, VA 22313-1450

Re: Application #: 09/808,962

Dear Sir:

I, Mikhail Levitin, hereby assert that the attached papers:

- Petition For Revival Of An Application For Patent Abandoned Unintentionally Under
37 CFR 1.137(b);

- Amendment to the application;

were mailed to PTO by a certified mail on November 29, 2005.

Copies of the receipt from USPS and PTO are attached.

Respectfully submitted,


Mikhail Levitin3/23/2006
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MAR 24 2006

OFFICE OF PETITIONS

Address & Telephone:**UNITED STATES PATENT AND TRADEMARK OFFICE**

Examiner: Hoang M. Nguyen

Art Unit: 3748

In re:

Applicant(s): Levitin, et al.

Serial No.: 09/808,962

VERIFICATION*Mail Stop Petition*Honorable Commissioner
Of Patents and Trademarks P.O. Box 1450
Alexandria, VA 22313-1450

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Copies of the receipt from USPS and PTO are attached.

Respectfully submitted,


Mikhail Levitin3/21/2006
DateAddress & Telephone:
Mikhail Levitin
P.O. Box 102
Readers, PA 18352
Tel.: 570-620-1024

Mikhail Levitin

Page 1

3/21/06

FROM : MLI

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UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: Hoang M. Nguyen

Art Unit: 3748

In re:

Applicant(s): Levitin, et al.

Serial No.: 09/808,962

VERIFICATION

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OFFICE OF PETITIONS

Honorable Commissioner
Of Patents and Trademarks
Alexandria, VA 22313-1450

Re: Application #: 09/808,962

Dear Sir:

I, Mikhail Levitin, hereby assert that the attached papers:

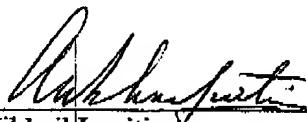
- Petition For Revival Of An Application For Patent Abandoned Unintentionally Under
37 CFR 1.137(b);

- Amendment to the application;

were mailed to PTO by a certified mail on November 29, 2005.

Copies of the receipt from USPS and PTO are attached.

Respectfully submitted,


Mikhail Levitin 3/21/2006
Date

Address & Telephone:
Mikhail Levitin
P.O. Box 102
Reeders, PA 18352
Tel.: 570-620-1024

PTO/SB/62 (08-03)

Approved for use through 07/31/2008. OMB 0501-0031

Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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Signature

Mikhail Levitin

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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.